IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

SATURDAY, THE 18TH AUGUST 2007 / 27TH SRAVANA 1929

WP(C).No. 33679 of 2004(H)

PETITIONER:

KALYANI KITTAN, AGED 82 YEARS,
W/O. LATE C.K. KITTAN, PUTHUPURAYIDATHIL,
MUKKOOTTUTHARAM, KOTTAYAM DISTRICT.

BY ADV. SRI.JOY GEORGE,
SRI.SAJITH PAUL MATHEW.

RESPONDENTS:
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1. **UNION OF INDIA REPRESENTED BY THE SECRETARY, MINISTRY OF HOME (FF PENSION), NEW DELHI.**
2. **THE SECRETARY, GENERAL ADMINISTRATION DEPARTMENT, FF PA DIVISION, GOVT.SECRETARIAT, TRIVANDRUM.**
3. **THE DISTRICT COLLECTOR, KOTTAYAM.**

BY ADV. SRI.N.ANILKUMAR, ADDL.CGSC,
GOVERNMENT PLEADER SMT. N. SUDHA DEVI FOR R2 & R3,
SRI. AJITH KRISHNAN, ADDL.CGSC.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/08/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.33679/2004:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE LETTER NO:SZ 19/2930/74 FF ISSUED IN THE YEAR 1974.

EXT.P.2: COPY OF THE LETTER NO. H7 10-98/75 DTD. 22/01/1975 OF THE R3.

EXT.P.3: COPY OF THE LETTER NO:B9-3158/75 DTD. 17/10/75 THE THAHASILDAR ENQUIRED ABOUT THE PLACE OF BIRTH.

EXT.P.4: COPY OF THE CERTIFICATE ISSUED BY K.A. MATHEW EX-MLA DTD. 18TH JUNE 1975.

EXT.P.5: COPY OF THE LETTER ISSUED BY THE R.1. NOSZ 19/2920/74-FF.

EXT.P.6: COPY OF THE INFORMATION PASSED BY THE R.1. IN THIS REGARD WIDE DY.NO.14695/80/HMP.

EXT.P.7: COPY OF THE FAX MESSAGE FROM THE R.1. TO P.C. THOMAS MP.

EXT.P.8: COPY OF THE LETTER NO. 34/P2/03/TI DTD.2 4/03/03 ISSUED BY THE SUB INSPECTOR OF POLICE, TIRUVALLA.

EXT.P.9: COPY OF THE CERTIFICATE ISSUED BY K.A. ALIAS KOVOOR DTD. 12/09/2002.

EXT.P.10: COPY OF THE LETTER NO:15799/02 DTD. 24/10/2002 ISSUED BY THE R.3.

EXT.P.11 & 12: COPY OF THE CERTIFICATE ISSUED BY THOSE RETERANT FREEDOM FIGHTERS.

EXT.P.13: COPY OF THE PETITIONER'S APPLICATION FOR PENSION IS ALSO PENDING BEFORE THE RESPONDENT.

EXT.P.14: COPY OF THE KERALA FREEDOM FIGHTERS PENSION RULES DT. 02/11/98.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

T.R.RAMACHANDRAN NAIR, J.

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WP(C).No.33679 of 2004-H.

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Dated this the 18th day of August, 2007.

J U D G M E N T

The widow of a prominent freedom fighter Sri.C.K.Kittan is before this Court nearly 33 years after the first application was filed by late Sri.C.K.Kittan for grant of pension under the Swathantrata Sainik Samman Pension Scheme. Even now the State Government could not forward the application along with necessary documents and the recommendation letter to the Central Government for their sanction.

2. The short facts are; the late husband of the petitioner had filed an application for grant of pension dated 20.3.1974 which is evident from Ext.P1 letter sent by the Union Government. Pursuant to Ext.P2 letter of the District Collector action was taken in the matter and the late husband of the petitioner forwarded Ext.P4 co-prisoner certificate issued by Sri.K.A.Mathew Ex-M.L.A. It was then informed by Ext.P5 by the Union Government that since the State Government has not recommended the case for grant of pension his application could not be considered. Apparently, in view of the above the petitioner's late husband again sought for fresh materials and he

obtained Ext.P8 Non-availability of Record Certificate from the police station, Tiruvalla, Ext.P9 certificate from Sri.K.A.Alias Kovoor, another prominent freedom fighter and produced them before the State Government through the District Collector. By Ext.P10 he was directed to submit certificates from the co-prisoners in the proper form which was complied with by him. Ext.P11 is the certificate issued by Sri.K.A.Alia Kovoor and Ext.P12 is the certificate from Smt.Rosamma Punnoose, Ex-M.L.A. Meanwhile, late Sri.C.K.Kittan died and thereafter the petitioner who is the widow submitted Ext.P13 application along with all these documents. Aggrieved by the inaction of respondents in the matter she had filed this writ petition.

3. In the counter-affidavit filed on behalf of the 2nd respondent it is averred in para.7 that the application of the petitioner was scrutinised by the Government in detail and a reply was also given to the petitioner pointing out the defects vide Government letter No.38574/FFP A1/03/GAD dated 20.12.2003. The learned Government Pleader submits that the defects have not been cured so far. A copy of the letter has not been produced along with the counter-affidavit. The learned counsel for the petitioner points out that the petitioner has not been served with the said letter. It appears that the only defect is that the suffering of the late husband in connection with the freedom struggle has not been stated in Ext.P13 application. Merely because of that

defect the application cannot be kept without forwarding it to the Central Government. Any way, since the said issue is only one concerning a defect in the application, in the interest of justice, the petitioner should be allowed a further opportunity to cure the defect for enabling the State Government to forward it to the Central Government along with due recommendation.

4. The learned counsel for the petitioner points out that she is not in a position to appear personally before the concerned authorities due to her advanced age and illness and she may be allowed to be represented by her son. Accordingly, the writ petition is disposed of with the following directions:

The 2nd respondent shall communicate a copy of the Government letter dated 20.12.2003 referred to in para.4 of the counter-affidavit filed by the 2nd respondent to the petitioner for enabling her to cure the defects within two weeks from the date of production of a copy of this judgment. The petitioner is allowed to resubmit the same with the assistance of her son as she is not in good health as noticed above. On receipt of the corrected application along with other documents, respondents 2 and 3 shall forward the verification cum entitlement report to the Central Government for enabling the first respondent to take a decision in the matter. Since the matter is a long pending one, the State Government shall forward the report within six weeks

from the date of receipt of the corrected application and other documents to the Central Government. Within three months from the date of receipt of records from the State Government the 1st respondent will consider them on merits and pass appropriate orders in the matter. No costs.

T.R.RAMACHANDRAN NAIR, JUDGE.

Kvs/-